

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



Implementation of Renewables Portfolio Standard Legislation*)	Docket No. 03-RPS-1078
)	RPS Proceeding
)	
and)	
Implementation of Renewables Investment Plan Legislation**)	Docket No. 02-REN-1038
)	Renewable Energy Program
)	
)	Notice of Business Meeting
)	RE: Guideline Revisions for
)	Renewable Energy Program
		and RPS Implementation

Notice of Business Meeting to Consider Adopting Proposed Changes to the Renewables Portfolio Standard Guidelines

The California Energy Commission will hold a regularly scheduled business meeting on:

WEDNESDAY, MARCH 14, 2007
10 a.m.
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Hearing Room A
Sacramento, California
(Wheelchair Accessible)

Audio from this meeting will be broadcast over the Internet.

For details, please go to:

www.energy.ca.gov/webcast/

* Going forward, the title of this proceeding shall be known as "Implementation of Renewables Portfolio Standard Legislation" recognizing that former Public Utilities Code Sections 381, 383.5 and 445 are no longer the applicable law and have been replaced with subsequent statutory authority.

* * Going forward, the title of this proceeding shall be known as "Implementation of Renewables Investment Plan Legislation" recognizing that former Public Utilities Code Sections 381, 383.5 and 445 are no longer the applicable law and have been replaced with subsequent statutory authority.

As part of the March 14, 2007, Business Meeting, the California Energy Commission will consider adoption of the proposed changes to the *Renewables Portfolio Standard Eligibility Guidebook (RPS Guidebook)*, *New Renewable Facilities Program Guidebook (NRFP Guidebook)*, *Existing Renewable Facilities Program Guidebook (ERFP Guidebook)*, *Consumer Education Program Guidebook*, and the *Overall Program Guidebook for the Renewable Energy Program*.

Background

The Energy Commission's Renewable Energy Program provides funding to support existing, new and emerging renewable energy resources with the goal of establishing a competitive, self-sustaining renewable energy supply for California while increasing the near-term quantity of renewable energy generated in-state. Funding is provided through program elements of the Renewable Energy Program; those pertinent to this notice include the Existing Renewable Facilities Program, New Renewable Facilities Program, and Consumer Education Program. The Energy Commission has provided this funding since 2003 under Senate Bill 1038.¹ This law, in conjunction with the Reliable Electric Service Investments Act,² continues the collection of a non-bypassable system benefit charge initiated in 1998 under Assembly Bill 1890,³ and authorizes the Energy Commission to continue the expenditure of these funds to support existing, new, and emerging renewable resources.

The Energy Commission is also charged with implementing portions of California's Renewables Portfolio Standard (RPS). Under the RPS, retail sellers of electricity must increase the amount of renewable energy they procure each year by at least 1 percent so that 20 percent of their retail sales are served with renewable electricity by December 31, 2010. The Energy Commission is charged with certifying eligible renewable energy resources that satisfy RPS procurement requirements, developing an accounting system to verify retail sellers' compliance with the RPS, and awarding supplemental energy payments (SEPs) to cover the above-market cost to procure new and repowered eligible renewable energy resources. Renewable energy resources eligible to satisfy RPS procurement requirements may also qualify for funding under the other elements of the Renewable Energy Program.

The Energy Commission's Renewables Committee has proposed revisions to several of the Renewable Energy Program's guidelines, including the Overall Program guidelines, to reflect changes in law as a result of Senate Bill 107, Senate Bill 1250, and Assembly Bill 2189, and to address other regulatory and market developments. The Committee draft March 2007 *Guidebooks* reflect proposed changes to the April 2006 *RPS Guidebook*, the April 2006 *NRFP Guidebook*, the June 2006 *ERFP Guidebook*, the May

¹ Public Utilities Code Sections 383.5 and 445 were amended and recast as Public Resources Code Sections 25740 through 25751 pursuant to SB 183 (Sher, Statutes 2003, Chapter 666).

² Public Utilities Code Sections 399, et seq., as enacted by Assembly Bill 995 (Chapter 1051, Statutes of 2000) and Senate Bill 1194 (Chapter 1050, Statutes of 2000).

³ Assembly Bill 1890 (AB 1890) Chapter 854, Statutes of 1996.

2004 *Consumer Education Program Guidebook*, and the April 2006 *Overall Program Guidebook*. A summary of each *Guidebook* and proposed changes follows:

- The *RPS Guidebook* describes the eligibility requirements and process for certifying renewable resources as eligible for California's RPS and SEPs and describes how the Energy Commission will design and implement an accounting system to verify compliance with the RPS. Proposed changes to the *RPS Guidebook* include modifications and updates to: eligibility criteria for biomass, distributed generation solar, geothermal, hybrid facilities that use a mix of fuels including fossil fuel, small hydroelectric, hydroelectric conduit, and municipal solid waste conversion facilities; the eligibility online or repower date for SEP certification; new RPS reporting requirements for electric services providers (ESPs), community choice aggregators (CCAs), and multi-jurisdictional utilities; eligibility and delivery requirements for out-of-state facilities; new requirements for publicly-owned utilities (POUs); and eligibility criteria for facilities that inject biogas into the natural gas pipeline transmission system.
- The *NRFP Guidebook* describes how the Energy Commission will allocate and award SEPs to cover the above-market costs of renewable energy. Proposed changes to the *NRFP Guidebook* include changes to: impose a cap of the amount of SEP funds available to out-of-state facilities, expand SEP eligibility to facilities contracting with ESPs, prohibit SEPs for contracts of under 10 years, disallow SEPs for tradable RECs, describe the conditions under which facilities contracting with ESPs may receive SEPs, and expand SEP eligibility to procurement entities that enter into an agreement to procure RPS-eligible electricity on a retail seller's behalf.
- The *ERFP Guidebook* describes the Energy Commission's process for awarding production incentives to existing in-state renewable generating facilities. Proposed changes to the *ERFP Guidebook* include allowing biomass facilities to use up to 5 percent fossil fuel, adding flexibility to power purchase contracting requirements, and modifying the basis for determining facilities' target prices.
- The *Consumer Education Program Guidebook* describes the Energy Commission's requirements to qualify for funding for promoting renewable energy and helping build a consumer market for renewable energy and emerging renewable technologies. Proposed changes to the *Consumer Education Guidebook* include adding specific limitations on the program's funds.
- The *Overall Program Guidebook* describes specific aspects of how the Energy Commission's Renewable Energy Program is administered. Proposed changes to the *Overall Program Guidebook* include adding, deleting, and modifying terms and definitions.

A more detailed summary of the proposed changes with respect to the previously adopted versions of these *Guidebooks* is provided in Attachment A to this notice. The draft *Guidebooks* shown with proposed changes in underline/strikeout are available on the Energy Commission's website at:

<http://www.energy.ca.gov/portfolio/documents>

Hard copies of the draft *Guidebooks* may be obtained by contacting Gina Fontanilla at (916) 654-4524, GFontani@energy.state.ca.us.

Process

In December 2006, the Energy Commission staff proposed changes to the *RPS Guidebook* (April 2006), the *NRFP Guidebook* (April 2006), the *ERFP Guidebook* (June 2006), the *Consumer Education Program Guidebook* (May 2004) and the *Overall Program Guidebook* (April 2006) to reflect statutory, market, and regulatory developments and to respond to lessons learned through implementing the program. The Energy Commission solicited comments on the December 2006 staff draft *Guidebooks* and held a Renewables Committee (Committee) workshop on January 10, 2007, to receive comments. After careful consideration of written and verbal comments and additional technical and policy analysis, the Committee is proposing revisions to the *Guidebooks*.

The Energy Commission will consider adopting these Committee draft *Guidebooks* at the March 14, 2007, Business Meeting. Public Resources Code Section 25747 authorizes the Energy Commission to approve substantive changes to the *Guidebooks* upon providing 10 days public notice. Changes take effect once approved at a publicly noticed meeting.

Written Comments

The Committee encourages members of the public to submit written comments on the proposed draft *Guidebooks* in advance of the business meeting. Please provide an original and 21 copies of comments filed by mail or in person to the Energy Commission's Docket Unit. Alternately, parties may file a single copy electronically with the Docket Unit and follow up with an original copy by mail. The Committee encourages comments to be submitted by e-mail to allow for their posting on the RPS proceeding Web page. If you are providing written comments at the Business Meeting, please make an additional 50 copies available at the beginning of the meeting.

Please send or deliver written materials to:

California Energy Commission
Re: Docket No. 03-RPS-1078 and Docket No. 02-REN-1038
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5504
E-Mail: docket@energy.state.ca.us

All written materials filed with the Docket Unit will become part of the public record in these proceedings. The Committee strongly encourages parties to file written comments

by close of business March 9, 2007, but will accept written comments up to the day of the Business Meeting.

Public Participation

The Energy Commission's Public Adviser provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this forum, please contact the Public Adviser's Office at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by e-mail at [pao@energy.state.ca.us]. If you have a disability and require assistance to participate, please contact Lou Quiroz at (916) 654-5146 at least five days in advance.

If you have technical questions regarding the subject matter of this notice, please contact Heather Raitt of the Renewable Energy Program by phone at (916) 654-4735, or by e-mail at [hraitt@energy.state.ca.us]. News media inquiries should be directed to Claudia Chandler, Assistant Executive Director, at (916) 654-4989.

JOHN L. GEESMAN
Commissioner and Presiding Member
Renewables Committee

JACKALYNE PFANNENSTIEL
Chairman and Associate Member
Renewables Committee

Date Mailed: March 2, 2007

Dated: March 2, 2007

Mail Lists: 5503 Existing, 5504 New, 5506 CE, 5507 RPS

Note: California Energy Commission's formal name is State of California Energy Resources Conservation and Development Commission.

ATTACHMENT A

Summary of Proposed *Guidebook* Changes

The following summarizes the proposed changes to the *Renewables Portfolio Standard Eligibility Guidebook*, the *New Renewable Facilities Program Guidebook*, the *Existing Renewable Facilities Guidebook*, the *Consumer Education Program Guidebook*, and the *Overall Program Guidebook for the Renewable Energy Program*. To review the proposed changes in their entirety, please visit the Energy Commission's website at [www.energy.ca.gov/portfolio/documents/index.html].

Renewables Portfolio Standard Eligibility Guidebook

The *Guidebook* is modified to:

- Remove the certification category for Incremental Geothermal and remove references to municipal solid waste, geothermal, and small hydroelectric being restricted to baseline.
- Remove the option to register a facility as 'Renewable Only' if it does not meet RPS or SEP eligibility criteria.
- Specify that out-of-state and out-of-country facilities are only RPS eligible if they come online or are repowered after January 1, 2005, with exceptions for incremental generation from project expansion or repowering or facilities that are part of a retail seller's baseline. Further:
 - The facility must not cause or contribute to any violation of a California environmental quality standard or requirement.
 - If located outside the United States, the facility must be developed and operated in a manner that is as protective of the environment as a similar facility located in California.
- Require that ESPs, CCAs, and multi-jurisdictional utilities subject to Public Utilities Code Section 399.17 submit the CEC-RPS-Track form for 2005 and 2006 on May 1, 2007, and annually thereafter.
- Modify delivery requirements including allowing any control area in the Western Electricity Coordinating Council to be the delivery source for out-of-state facilities to deliver energy into California. The lesser amount of the quantity delivered and the quantity of RPS-eligible energy generated would be RPS-eligible.
- Clarify that unbundled renewable energy credits (RECs) may not be used to satisfy the RPS procurement requirements until the California Public Utilities Commission (CPUC) makes such a determination, the rules are established to guide that process, and the Energy Commission and the CPUC conclude that the Energy Commission's REC tracking system is operational.
- Add RPS provisions for POUs that are required under new legislation, including:

- Reporting to their customers and to the Energy Commission on their progress in implementing their RPS.
 - Implementing new rules for POU that take effect if: (a) tradable REC sales are approved for retail sellers to use towards their RPS compliance, and (b) a POU seeks to sell RECs for a retail seller to use toward RPS compliance.
- Specify that the RPS-eligibility of small hydroelectric facilities depends in part on whether the facility was under contract to, or owned by, a retail seller as of December 31, 2006.
- Specify that the RPS eligibility of a conduit hydroelectric facility depends in part on whether the facility was operational on or before December 31, 2006, and whether energy efficiency improvements were made after January 1, 2003.
- Add as an eligible renewable resource hybrid facilities that use RPS-eligible biogas injected into a natural gas pipeline.
- Modify the eligibility criteria for facilities that use a mix of fuels including fossil fuel as follows: (except Qualifying Small Power Production Facilities—see below):
 - If the facility operator demonstrates that the fossil fuel use does not exceed a *de minimus* amount annually, then the entire amount of energy generated may qualify for the RPS. *De minimus* for facilities seeking RPS and SEP eligibility is 2 percent of all fuels used and measured on an annual energy input basis. *De minimus* for existing facilities seeking RPS eligibility and funding under the Energy Commission’s Existing Renewable Facilities Program is 5 percent of all fuels used and measured on an annual energy input basis.
 - If the annual fossil fuel use exceeds a *de minimus* amount annually, then only the renewable portion of the electricity production may qualify for the RPS and only once an appropriate methodology to account for such electricity production is developed.
- Modify the eligibility criteria for facilities that use a mix of fuels including fossil fuel that are certified as qualifying small power production facilities (QF) under the federal Public Utility Regulatory Policies Act and allow 100 percent of the electricity generated from such a facility to be RPS eligible if the facility:
 - Became operational before 2002, or
 - Was or will be developed and awarded a power purchase contract as result of an Interim RPS solicitation approved by the CPUC following Decision 02-08-071 and Decision 02-10-062.
- Change the certification category for QFs from ‘hybrid’ to the renewable fuel used, such as ‘solar thermal’ or ‘biomass.’
- Clarify the process for renewing RPS certification and pre-certification.
- Make other conforming and clarifying changes.

New Renewable Facilities Program Guidebook

The *Guidebook* is modified to:

- State that the Energy Commission will make SEPs for no longer than 10 years and specify that SEPs will only be paid for a facility with a contract of at least 10 years.
- Require that the allocation and award of SEPs shall be to a project selected by an electrical corporation only if it results from a competitive solicitation approved by the CPUC, or to a project selected by another retail seller (non-electrical corporation) only if the CPUC determines the selection is consistent with the results of a least-cost and best-fit process. Further, the SEPs must be reasonable in comparison to those paid under similar contracts with other retail sellers.
- Clarify that SEPs shall, subject to any payment caps established by the Energy Commission, be equal to the cumulative above-market costs over the duration of the contract.
- Add that SEPs may be awarded to a facility that provides electricity to a procurement entity that procures energy on behalf of a retail seller.
- Change the eligibility criteria for SEPs such that facilities must begin commercial operations or be repowered on or after January 1, 2005, or such later date as determined by the Energy Commission, with the exceptions that the applicable date for small hydroelectric facilities is January 1, 2006, and the applicable date for conduit hydroelectric facilities is January 1, 2007.
- Remove the provision that electricity produced by a facility owned by a retail seller or publicly owned electric utility is ineligible for SEPs.
- State that no SEPs will be awarded for tradable renewable energy credits (RECs).
- Clarify that out-of-state applicants must demonstrate that the electricity was delivered to a retail seller to receive SEPs, with delivery scheduled through an in-state market hub or in-state substation located within California.
- Impose a 10 percent cap on the amount of SEP funds available for out-of-state facilities.
- Make other conforming and clarifying changes.

Existing Renewable Facilities Program Guidebook

The *Guidebook* is modified to:

- Allow biomass facilities participating in the Existing Renewable Facilities Program (ERFP) to use up to 5 percent fossil fuel on a total energy input basis annually.

- Remove a provision that a facility must not sell its electrical generation under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, with the exception of generation that complies with the requirements of Public Resources Code Section 25740.5, Subdivision (e), paragraph (1)(C).
- Modify the methodology for assigning target prices to facilities to be based on monthly average energy prices (in cents/kWh); however capacity payments (\$/kW-year) may be used to assign target prices. The Energy Commission also reserves the right to set target prices that are based on “all-in” prices.
- Require facilities to provide information on the public benefits provided by the operation of the facility on the ERFP Funding Eligibility form (CEC-1250E-1).
- Allow facilities to report their market value on the CEC-1250E-1 form by using the value that has been assessed for calculating property taxes.
- State that the Energy Commission may set targets and caps for groups of facilities that have ‘substantially’ similar needs.
- Make other conforming and clarifying changes.

Consumer Education Program Guidebook

The *Guidebook* is modified to:

- Specify that Consumer Education Program funds may be used for a regional accounting system to verify compliance with the RPS only upon appropriation by the Legislature in the annual Budget Act.
- Require that funds encumbered for a regional accounting system after September 27, 2006, shall be recovered through a system user fee.
- Make other conforming and clarifying changes.

Overall Program Guidebook

The *Guidebook* is modified to:

- Remove provisions for the Customer Credit Program.
- Clarify how the Energy Commission administers the Renewable Resource Trust Fund under Public Resources Code Section 25751, Subdivision (c).
- Modify definitions in accordance with changes in the law and policy for various terms, including: annual procurement target, baseline, billing month, biomass, conventional power source, in-state renewable electricity generation facility, market price referent, procurement, renewable energy credits, Renewables Portfolio Standard, small hydro, Supplemental Energy Payments.

- Add definitions for various terms: biodiesel, conduit hydroelectric and eligible renewable energy resource, and remove the definitions for incremental geothermal and renewable.
- Make other conforming and clarifying changes.